

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RAMON MENDOZA,

Plaintiff,

vs.

JUSTIN OSTERBERG, et al.,

Defendants.

8:13CV65

ORDER

This matter is before the court on the motion to strike (Filing No. 51) filed by U.S. Immigration and Customs Enforcement (ICE). ICE seeks to be removed as a party or have the plaintiff's amended complaint (Filing No. 46) stricken from the record because, although the plaintiff received the court's permission to file the amended complaint, it is not identical to the proposed pleading. The plaintiff filed a response brief coupled with a motion to authorize discovery (Filing No. 53). The plaintiff opposes ICE's motion arguing the amended complaint is consistent with the court's order (Filing No. 44) and, in any event, removes ICE as a defendant. ICE was terminated as a party to this action when the amended complaint was filed on September 18, 2013. **See** Filing No. 46. Accordingly, ICE improvidently filed the September 30, 2013, motion and such motion is denied.

IT IS ORDERED:

1. U.S. Immigration and Customs Enforcement's motion to strike (Filing No. 51) is denied.
2. The plaintiff's motion to authorize discovery (Filing No. 53) is granted to the extent discovery is allowed under Fed. R. Civ. P. 26(d).

Dated this 15th day of October, 2013.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge